BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.911/2024

Muhammad Haris s/o Alif Gul, ex-Carpenter Cooly BPS-03, Resident

Appellant

Versus

The Government of Khyber Pakhtunkhwa through Secretary, C&W Department, Peshawar and others

Respondents

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Deponent

Haseeb Ur Rehman, Executive Engineer,

C&W Building Division Mardan (Respondent No.3).

SERVICE TRIBUNAL PESAHWAR

Khyber Pakhtukhwa Service Tribunal

Service Appeal No.911/2024

Diary No. 17594

Dated 05-11-24

Muhammad Haris s/o AlifGul, ex-Carpenter Cooly BPS-03, Resident

Appellant

Versus

The Government of Khyber Pakhtunkhwa through Secretary, C&W Department, Peshawar and others

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4

Respectfully Sheweth

Preliminary Objections

- 1. That the appellant has no cause of action.
- 2. That the appeal is incompetent and not maintainable in its present form.
- 3. That the appellant is stopped by his own conduct to bring the present appeal.
- 4. That the appellant has no locus standi.

FACTS

- I. Pertains to record.
- II. Pertains to record. However the information about his mother being ill etc., though immaterial to the matter at hand, was never conveyed to his superiors by any means.
- III. The appellant was habitual absentee. In this regard several notices dated 07/04/2023, 12/04/2023, 27/04/2023 and 30/05/2023 were issued to the appellant i.e. opportunities to attend his position of duty (Annexure I to IV). It was only after these notices that his pay was stopped in July 2023 (Annexure-V). Even after stoppage of pay the Appellant failed to attend to his duty or to provide any information/explanation with regards to the reasons for his absence. Finally, an advertisement to this effect, as laid down in the procedure, was also given in the newspaper on 09/03/2024 (Annex-VI). Resultantly major penalty i.e. "Removal from Service" was imposed upon the appellant vide Executive Engineer C&W Building Division Mardan Office Order No.808/4-E dated 25/03/2024 (Annex-VII).

- IV. The Departmental Appeal of the appellant was received on 19/04/2024 which was processed. However the same was regretted by the Superintending Engineer C&W Circle Mardan vide letter No.1813/11-B dated 21/05/2024 (Annex-VIII).
- V. As explained in Para-IV above.
- VI. No Comments.

<u>GROUNDS</u>

- 1. Incorrect. As explained in above Paras of the facts above.
- 2. Incorrect. The Appellant was provided ample opportunity to refute the allegations and prove his innocence by appearing at his position of duty. He was further afforded an appeal against his removal from service which he has utilized.

Million Strain Committee

- Incorrect. As explained in above Paras of the facts above. The instant case did not necessitate a formal inquiry proceedings as the Competent Authority Furthermore, the Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011 Section 5 (b) ii, states
 - "A Government servant is or has been absent from duty without prior approval of leave
 - Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry"
- 4. Incorrect. The instant matter has been conducted strictly in accordance with the KP E&D Rules 2011.
- 5. Incorrect. As explained in Para-3 above.
- 6. Incorrect. As explained in above Paras of the facts above.
- 7. Incorrect. As explained in Para-III of the facts above.
- 8. Incorrect. As explained in above Paras of the facts above.
- 9. Incorrect. Pertains to record.
- 10. The respondents would like to seek permission of this Hon'ble Tribunal to advance more grounds during the time of arguments.

In view of the above, it is submitted that the Appeal is mis-conceived at this stage, hence may please be dismissed.

SECRETARY

to Govt of Khyber Pakhtunkhwa

C&W Department,

(Respondents No. 1)

MUHAMMAD ISRAR

Superintending Engineer

C&W Circle Mardan

(Respondent No.3)

IMRAN HUSAIN

CHIEF ENGINEER (CENTER)

Khyber Pakhtunkhwa

C&W Department

(Respondent No.2)

JAMSAHD ALI KHAN

Executive Engineer

C&W Building Division Mardan

(Respondent No.4)

HASEEB-UR-REHMAN



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.911/2024

Muhammad Haris s/o AlifGul, ex-Carpenter Cooly BPS-03, Resident

Appellant

Versus

The Government of Khyber Pakhtunkhwa
through Secretary, C&W. Department, Peshawar and others

Respondents

<u>AFFIDAVIT</u>

I, Haseeb ur Rehman, Executive Engineer C&W Building Division Mardan (Respondent No.3) hereby affirm and declare that all the contents of the Parawise comments are correct to the best of my knowledge and belief and nothing has been concealed.

It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-party nor their defence has been struck off.

Oath Commissioner Commissioner

Haseeb Ur Rehman, Executive Engineer

Deponent

C&W Building Division Mardan (Respondent No.3)

0 5 NOV 2024





OFFICE OF THE SUPERINTENDING ENGINEER C&W CIRCLE MARDAN

<u>AUTHORITY LETTER</u>

Mr. Haseeb ur Rehman, Executive Engineer C&W Building Division

Mardan is hereby authorized to file Parawise Comments in case titled "Service Appeal

No 911 Of 2024 – Muhammad Haris Vs Govt of Khyber Pakhtunkhwa Through

Secretary C&W Peshawar and others"

Superintending Engineer C&W Circle Mardan

(Respondent No.2)



OFFICE OF THE EXECUTIVE ENGINEER C&W BUILDING DIVISION MARDAN

Phone No. 0937-9230668 | Fax No. 0937-9230558 Email Address: cwindnb2013@gmail.com (b)

No. 2728 16/5

Dated Mardan 2/04/ /2023

- 1. Mr. Haris, Carpenter Cooli,
- 2. Mr. Kashif, Naib Qasid,
- 3. Mr. Bilal, Dafadar,
- Mr. Luqman Hakeem, Naib Qasid, C&W Building Division, Mardan.

SUBJECT: EXPLANATION.

It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned.

You are hereby directed to explain your position for being absent without permission within 3 days positively, failing which disciplinary action will be taken against you under E&D Ruies.

EXECUTIVE ENGINEER

Copy to the:

- 1. Superintending Engineer C&W Circle Mardan for information please.
- 2. Divisional Accounts Officer (Local) for information and necessary action.

EXECUTIVE ENGINEER

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OFFICE OF THE EXECUTIVE ENGINEER C&W BUILDING DIVISION MARDAN

Phone No. 0937-9230668 | Fax No. 0937-9230558 Email Address: cwmdnb2013@gmail.com (7)

No.2743/6-E

Dated Mardan 12/9 /20

1. Mr. Haris, Carpenter Cooli,

2. Mr. Kashif, Naib Qasid,

3. Mr. Bilal, Dafadar,

4. Mr. Luqman Hakeem, Naib Qasid, C&W Building Division, Mardan.

SUBJECT: ABSENT FROM DUTY.

Reference: This office letter No. 2728/6-E dated 07-04-2023.

It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned.

You are hereby directed to explain your position for being absent without permission within 3 days positively, failing which disciplinary action will be taken against you under E&D Rules.

EXECUTIVE ENGINEER

Copy to the:

1. Superintending Engineer C&W Circle Mardan for information please.

2. Divisional Accounts Officer (Local) for information and necessary action.

EXECUTIVE ENGINEER

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OFFICE OF THE EXECUTIVE ENGINEER C&W BUILDING DIVISION MARDAN

Phone No. 0937-9230668 | Fax No. 0937-9230558 Email Address: cwmdnb2013@gmail.com (2)

No.2775/6-E

Dated Mardan 27 / 4 /20

Τo,

- 1. Mr. Haris, Carpenter Cooli,
- 2. Mr. Kashif, Naib Qasid,
- 3. Mr. Bilal, Dafadar,
- 4. Mr. Luqman Hakeem, Naib Qasid, C&W Building Division, Mardan.

SUBJECT:

ABSENT FROM DUTY.

Reference:

This office letter No. 2728/6-E dated 07-04-2023. This office letter No. 2743/6-E dated 12-04-2023.

It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned.

You are hereby directed to explain your position for being absent without permission within 3 days positively, failing which disciplinary action will be taken against you under E&D Rules.

EXECUTIVE ENGINEER

Copy to the:

- 1. Superintending Engineer C&W Circle Mardan for information please.
- 2. Divisional Accounts Officer (Local) for information and necessary action.

EXECUTIVE ENGINEER

Alexand



OFFICE OF THE EXECUTIVE ENGINEER C&W BUILDING DIVISION MARDAN

Phone No. 0937-9230668 | Fax No. 0937-9230558 Email Address: cwmdnb2013@gmail.com FINAL SHOW
CAUSE NOTICE

No2887 16-E

Dated Mardan 30 / 5 /2023

To,

- 1. Mr. Haris, Carpenter Cooli,
- 2. Mr. Kashif, Naib Qasid,
- 3. Mr. Bilal, Dafadar;
- 4. Mr. Luqman Hakeem, Naib Qasid, C&W Building Division, Mardan.

SUBJECT: ABSENT FROM DUTY.

Reference: This office letter No. 2728/6-E dated 07-04-2023.

This office letter No. 2743/6-E dated 12-04-2023. This office letter No. 2775/6-E dated 27-04-2023.

. It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned vide above notices were issued to you but all in vain.

You are hereby finally directed to attend office duty within three days positively otherwise necessary disciplinary action will be taken against you under the E&D Rules.

EXECUTIVE ENGINEER

Copy to the:

- 1. Superintending Engineer C&W Circle Mardan for information please.
- 2. Divisional Accounts Officer (Local). Several notices were issued to the above officials to attend this office but till date the above officials absent from government duty since long, therefore their pay may be stopped.

EXECUTIVE ENGINEER

Alwhol



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Annex-iv

Annex-V Name Amount Code Effective Date Remarks Entered / Verified By

1164	O CONTRACTOR		
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. Personal No

PAY ROLL SYSTEM AMENDMENT FORM (PAYMENTS I DEDUCTION)

National ID Card Number

DDO

Sub-DDO

Code

XEN-C/W. Building DIVISION MARDAN

Detail Dept./ Function Code

Aŭgited / Checked By....

(12)





Allested

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ادویش اور فریزی و کر محمران شام اور دیا ہے۔ یال کی مساعد کا و فریت کی امل باعل، مدر بخت بلند بقيود فان ما في نياز بدوسال كي فيرمند فالتعليم ادر كودش شابراوك فی ہنیرم در مک فضل فائل، ملک اورامیان افہارے کی بندش ہے مجدوق سے صاحب اڑوت لوگوں سے انگل ہے کہ وہ فرعب نميال كما كرنتكو ، قاؤ فريش اور فريزي جركه كا خابمانول كيها تحد الى معاونت تعاون كري -

داروزه دستاربندي تقريب كاامتمآأ داروره (فرامحده آن) مولانا ظار الدين بمنتي تمر لیاز پروانا انعام الدین نے اقرا زمنت خلاب كرت موئ كاب كدد يادل تعليم ك

الاختال أكيدى عن ومتار بندى تقريب تي بن مقررين كاكمنا فعا كد مكومت لرفي تندو عندة ك لخ مرز ماتوماتود في فيم يدكي فعوى تجد في وا قابهساكل كالماقرآن بميشرا

آب مسمى حادث، كاريخ كل ، من ايندُ وْبليو بلدُنگ وُويِين مردان ورور 2023-04-07 سے اپی ڈیوٹی سے غیرحاضر ہیں۔ آپ کو بذر بیدلوش طلاع دی حاتی ہے کہ آب 14 دن سے اعرا فی ڈیے ٹی برحاضر ہو کرا ٹی غیرحاضر ک ک معقول دیبہ متاہیے ، بصورت ویکر آپ کے خلاف کار کردگ و انضبالی رولز برر (E&D Rules) کے تحت کیلرز کاروائی عمل امکرآپ کولوکری ہے INF(P)475/2024

التجز يكثيوانجيئئرى ابنذ ذبليو بلذتك ذويزن مردان

ي يوندالي يش دخت كا جائزه ليا كميا لل محدودول اوروا مكومت خد الت فراجم كا عبد

اميلا) آباد (جهود عدل) د زاوت بعقل البلته مرومز سيك مناو بعنادي . فما تحده كوفي فنانسك في

ر کیکشن اید: کمآ ما منیعن میں وقاتی سکروک خوند مدیلی اور فاکو سرم سرفرازے شرکت کی

الكور المشادال في در مدادت المياس ولا مرون المرون المرون المواد المروم المروم المروم المرور المستدون المدوم ال الكور المروم على وفاق عاد المال عن الميشواد والمواد المواد المواد المياد المياد المياد المواد المواد

ككر تعليم (مردانه) ملع شانكد كردج ذيل درس المناذي في سے بغير كى اطلاح مے غیر ماضرے ۔ ان کو اس دفتر سے بحوالہ مراسلہ نوٹس ان کے محر کے بعدیر رجسترى كمياحميا مخرجواب موصول ندجوا ودرج زيل مدرس كوآخرى باربذ وايداشتهار اطلاع دی جاتی ہے کہ اس بوش عے شائع مونے کے 15 دن کے اعدا اعدا بی ا این پر ماشر ہوکراورز پر وحظی کو اپنی غیر ماضری کے وجوبات سے آگاہ کریں بسورت ويمرآب ك ظاف يطرفة آنونى كاردوال على الل جاشك جركوآب كافرك عرف كل يرثق موكل ب-

100	الفياروجووها شرقي أوس	وسافيا باشتي	أعمامهم وأأونكون	توار
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طلباء و طالبات متوجه بيون

ار تعلی بعدام بائی مورز کی معادت سے شورک واکٹوٹوا ہے کس سے سال 2023 کے میرک اوما تئر میڈ برید کے میں و ۱۰ انتخاب سے بریم کا درک سکولور (بالی ایم بریکٹورل) کے ہے۔ 20 تیزیکٹور ولارد طل وعليات كواكل يماس عرد مكل ما فل كراكا يه المات كانت و عدا يدي يرك مي الديم البات كالإدر 10,000 دد ي الكيار مي المات كالأدر المان المات كالأدر كالمان كالمان كالمان كالأدر كالمان كالأدر كالمان كالمان كالمان كالأدر كالمان كالمان كالمان كالمان كالمان كالأدر كالمان كالمان كالمان كالأدر كالمان كالم الن دعيد إجارة كارش شركده احمانات كعب 20 طباء والباب كركري والوتسيل وق جادي بديسطار والباب جود كارجشيت عروا كارع احت عرد الفسيسي بال وكاتف كيك الی بیں۔ الی طاب و طالب سے کرند الی ہے کہ بعث کا دول کے اندے کا مندے کا بدارا کا میں مند الی باد میں کی داخل کا کا کا کا کا کا مسلسلند و الرکیس کی اندے کا بدارا کا میں مندے کا مداخل کی اندے کا کہ میں مندے کا مداخل کی مداخل کے کا مداخل کی مداخل کے بعد الاز کی مداخل کی مداخل کے مداخل کی مداخل کے بعد الاز کی مداخل کے بھی ان اور تعلیم اور کے مداخل کی مداخل کے بعد الاز کا میں میں کا الدائم کی مداخل کی مداخل کے بعد الاز کے بعد الاز کا میں مداخل کے بعد الاز کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کے بعد الاز کا میں مداخل کی مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کی مداخل کے بعد الاز کا مداخل کا مداخل کے بعد الاز کا مداخل کی مداخل کی مداخل کے بعد الاز کا مداخل کے بعد الد ار المان سے بارل شور Bonafide Certificate بانوا کی کرا باشلی بدا کی کرف سے برادی سول اور اعربیا عند بدا احتا ان 1202 کے اور اعربیا اور اعربیا عند ان احتا ان استان کے اور اعربیا کا میں میں ان استان کے انتقاد کا استان کی انتقاد کا کرف سے برادی سور کا اور اعربیا کا انتقاد کا استان کا انتقاد کا کرف سے برادی سور کا اور اعربیا کا انتقاد کا بخرارد كرام كرماليس كالحال الدي كالمعلى وجذال ب-

SSCساننس گروپ											
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كدونت كراز بالى مؤلد كالحلاك	. 972	67977	لنيهماأف	10	14	كوهشت بالحاسكال ايان بالأدمكو	974	91828	الاعزيار	1 :	13
كدنىد كالإيل كالمارين الماك	161	67273	بديرتم	12	16	كرمست كالإيل بملية مكافئاتك	970	71718	سنيرو إنكن	11	15
كردن زكويل كولترن مواسطة	966	65613	Lin	14	18	كرمعت بالى كول كالأباع واكرك	947	70005	زو <i>دو</i> ال		17
كدنعت كالبال كالمعادم سكان كأك	164	67300	بخرقدنوان	15	20	كدون الإبال كل صادم سكان أك	965	67830	پڼونز	14	19
كوهست كالإستين بالدياق يخل كك	JK 1	86587	8	15	22	كرمست بالحاكل بزياليل يوكل	964	\$13291	کھد	15	21
كمدون كالإبالي كالأوارك	959	68241	JU	17	24	كرونست كراويات بحلهان مريكات كرك	950	67811	4/30	17	73
كودن وكالإبال بكول بعرة بدكاك	968	67946	1	10	26	كدفست كرازي فكالمكاري ومان ومسكان كرك	958	67861	t C	18	. 25
كوهند كراد بالدكول باسري وق كرك	164	67640	طيعه أور	210	28	كدمسنة كراه بالم كالمركب يحد	967	05039	ما تھ	19	27
كربيت الم كلرل إلى الد	454	81470	35000	28	34	كالمعتب إيرتيكلف كمكان المروكي	. 650 :	71325	باجت	. 29	29

OFFICE OF THE EXECUTIVE ENGINEER BUILDING DIVISION MARDAN

Phone No. 0937-9230668 Fax No. D937-9230558 Email Address: cwmdnb2013@gmail.com

Annen-VII

(14)

No. 808 14-F

Dated Mardan the $2\sqrt{3}/\sqrt{2}$ /2024

OFFICE ORDER

WHEREAS Mr. Haris, Carpenter Cooli C&W Building Division Mardan remained absent from government duty since long.

AND WHEREAS, the competent authority has issued notices vide this office No. 2728/6-E dated 07-04-2023, 2743/6-E dated 12-04-2023, 2775/6-E dated 27-04-2023 and final show-cause notice issued through register vide GPO Mardan tracking No. RGL117182658 dated 05-07-2023 and this office No. 2887/6-E dated 30-05-2023 to the said official.

AND WHEREAS, a notice of absentee was also published in the daily newspapers i.e. Aaj Peshawar, Nida E Watan Mardan dated 09-03-2024 vide INFP No. INF/ADVT/475/2024 dated 08-03-2024 but no reply received from the official concerned till date.

AND WHEREAS, no reply received in the light of show-cause notice, the said official call for personal hearing but neither attend this office and not to submit any written statement.

Now therefore in exercise of power conferred under section 4 (b) (iii) Khyber Pakhtunkhwa Govt servants (Efficiency & discipline) Rules, 2011, I, Executive Engineer, C&W Building Division, Mardan being the Competent Authority is pleased to impose major penalty REMOVAL FROM SERVICE is hereby imposed upon him.

Copy forwarded to the:

- 1. The Chief Engineer (Center), C&W Department, Peshawar.
- 2. The Superintending Engineer, C&W Circle, Mardan.
- 3. The Sub Divisional Officer, Building Sub Division No. III, Mardan.
- 4. The Divisional Accounts Officer (Local).
- 5. Candidate Concerned.

EXECUTIVE ENGINEER

Svs-2/OF-OR

Allester



REGISTERED

To,

P/14

Dated Mardan the

SUPERINTENDING ENGINEER C&W CIRCLE MARDAN .

E"
Attested

Annen-VIII

Attester SHU, Advo

Mr. Muhammad Haris

Son of Alif Gul

Resident of Barat Khel, Babuzai

District Mardan.

Subject:

DEPARTMENTAL REPRESENTATION/APPEAL AGAINST THE OFFICE

ORDER NO. 808/14-E DATED 25-03-2024

Reference:

Your appeal dated 19-04-2024.

On receipt of your departmental appeal, the same was forwarded to the Executive Engineer, C&W Building Division Mardan vide this office letter No. 1700/11-E dated 22-04 2024 for detail report.

The Executive Engineer, C&W Building Division Mardan vide his letter No. 1058/4-E dated 16-05-2024 submitted detail report vide which it was explained that being competent authority he has imposed major penalty "removal from service" as per existing rules/policy.

Therefore your departmental appeal is hereby rejected.

-SUPERINTENDING ENGINEER

Copy to:

1. The Chief Engineer (Centre), C&W Department Peshawar.

2. The Executive Engineer, C&W Building Division Mardan.

SUPERINTENDING ENGINEER

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